

**APPLICANTS:**  
**Mountain Branch Property Limited Partnership**  
**Richard A. Godfrey**

**BEFORE THE**  
**ZONING HEARING EXAMINER**

**REQUEST: A modification of a special  
exception granted by Board of Appeals  
Case No. 4762 and Case No. 4912 to subdivide  
a parcel of land three acres in size as a  
separate residential building lot**

**FOR**  
**HARFORD COUNTY**  
**BOARD OF APPEALS**

**HEARING DATE: August 14, 2006**

**Case No. 5548**

### **ZONING HEARING EXAMINER'S DECISION**

**APPLICANT:** Mountain Branch Property Limited Partnership

**CO-APPLICANT:** Richard A. Godfrey

**LOCATION:** 267.04 acres Mountain Road–Mountain Branch Golf Course, Joppa  
Tax Map: 60 / Grid: 1F / Parcel: 46  
First (1st) Election District

**ZONING:** AG / Agricultural

**REQUEST:** A modification of a special exception granted by Board of Appeals Case No. 4762 and Case No. 4912 to subdivide a parcel of land three acres in size as a separate residential building lot in the AG District.

#### **TESTIMONY AND EVIDENCE OF RECORD:**

Richard A. Godfrey, Co-Applicant, appeared to request modification of site plan approval by the Board of Appeals in Case No. 4762, dated March 31, 1998. Case No. 4762 was the original approval of the special exception request which created the Mountain Branch Golf Course. That approval was based upon a site plan which showed the parcel which was the subject of that case as containing 278.78 acres.

Mr. Godfrey requests a modification of that approval in order to subdivide a lot containing approximately 3 acres from the original property subject to the golf course special exception.

Mr. Godfrey explained that when the original special exception was requested a note was made on the site plan filed at that time, and subsequently also made on the plat of record filed among the Harford County Land Records at Liber No. 101-99 (Attachment 3 to the Staff Report) that a portion of the property described as "Parcel 1" was to be reconveyed to 'R. A. Godfrey'. Mr. Godfrey explained that this parcel was always to have been a separate parcel and was to have been reconveyed to him personally at some time in the future.

**Case No. 5548 – Mountain Branch Property Limited Partnership and  
Richard Godfrey**

Mr. Godfrey and the golf course ownership group have now agreed that the parcel should be conveyed to him. However, as the 3 acre parcel is a portion of the land approved for Mountain Branch Golf Course in Case No. 4762, a modification is necessary before the subdivision can take place. Mr. Godfrey accordingly files this application and appears before the Board requesting such relief.

Mr. Godfrey explained that the 3 acre parcel is located on Stockton Road and is separated from that portion of the property which is actively used for a golf course by a stream. The 3 acre parcel is unimproved, with a gravel drive down through it, and is presently mowed and maintained as an open field. Mr. Godfrey explained it has never been a part of the golf course operation. Mr. Godfrey explained that the property does perc, and has about 350 feet of road frontage on Stockton Road. While Mr. Godfrey has no present plans to develop the parcel, at some time in the future he or his family plan to improve it, with a single family home.

For the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune notes that 2 plats of record, being those plats recorded at Liber No. 101-99, and Liber No. 101-100, each indicate the location of the 3 acre parcel, and each indicate the parcel is to be reconveyed to Mr. Godfrey. There is no part of Mountain Branch Golf Course on the 3 acre parcel. A stream known as Mountain Branch Stream lies between the subject parcel and the golf course. Since it is not part of the golf course property, and the lot is similar in size to others along Stockton Road, Mr. McClune sees no adverse impact to any adjoining property or neighbor and recommends approval.

While neighbors were present at the hearing and asked some questions of Mr. Godfrey and Mr. McClune, no neighbor expressed any opposition to the request.

**APPLICABLE LAW:**

Harford County Code Section 267-51. Purpose states:

*“Special exceptions may be permitted when determined to be compatible with the uses permitted as a right in the appropriate district by this Part I. Special exceptions are subject to the regulations of this Article and other applicable provisions of this Part I.”*

Harford County Code Section 267-52, Special Exception, states:

*“(B) A special exception or approval shall be limited to the final site plan approved by the Board. Any substantial modification of the approved site plan shall require further Board approval.”*

**Case No. 5548 – Mountain Branch Property Limited Partnership and  
Richard Godfrey**

Furthermore, Section 267-9I of the Harford County Code, Limitations, Guides, and Standards, is applicable to this request and is discussed in further detail below.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

The Applicants' request a modification of earlier special exception approval to allow the subdivision of a 3 acre lot from the Mountain Branch Golf Course property which, at the time of its initial approval, contained 278.78 acres. The 3 acre parcel was obviously originally intended to be reconveyed to Mr. Godfrey as can clearly be seen by plats of record. The 3 acre parcel is physically separated from that part of the property which is actually used as a golf course, and this 3 acre parcel is not a part of that facility in any way.

The property is zoned agricultural and a single family residence would normally be allowed on the property as a matter of right. It is only because the property is encumbered by the golf course special exception approval that this request is made.

In this request for modification, a review of Harford County Code Section 267-9I, Limitations, Guides and Standards, is required to determine that no adverse impact will result. Those factors are reviewed as follows:

(1) *The number of persons living or working in the immediate area.*

The proposal to create a 3 acre residential building lot should have no significant impact on the number of people working or living in the neighborhood.

(2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

The proposal should have no applicable impact on traffic.

(3) *The orderly growth of the neighborhood and community and the fiscal impact on the County.*

The proposal should have no applicable impact on these considerations.

**Case No. 5548 – Mountain Branch Property Limited Partnership and  
Richard Godfrey**

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

No such effects should be created if developed as proposed by the Applicants.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the County or persons to supply such services.*

Public fire and police protection is available. Public utilities are not involved.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The proposal is consistent with these considerations.

- (7) *The structures in the vicinity, such as schools, houses or worship, theaters, hospitals, and similar places of public use.*

No such structures have been identified as potentially being adversely affected.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The proposal is consistent with all such purposes and studies.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

There should be no environmental impact.

- (10) *The preservation of cultural and historic landmarks.*

No such landmarks have been identified.

Accordingly, no adverse impact upon any adjoining property owner, on the Mountain Branch Golf Course property, or upon the previous zoning approval related to the golf course property is found.

**Case No. 5548 – Mountain Branch Property Limited Partnership and  
Richard Godfrey**

**CONCLUSION:**

It is accordingly recommended that the modification of the special exception be granted subject to the following conditions:

1. The Applicants shall submit a preliminary plan to the Department of Planning and Zoning for review and approval.
2. The Applicants shall submit a final plat to the Department of Planning and Zoning for approval and recordation among the Harford County Land Records.

Date: September 8, 2006

ROBERT F. KAHOE, JR.  
Zoning Hearing Examiner

**Any appeal of this decision must be received by 5:00 p.m. on OCTOBER 6, 2006.**